

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

LIOBANY SERRANO LUNA,

Defendant.

CASE NO. CR19-173 RSM

ORDER CONTINUING STATUS  
CONFERENCE

THIS COURT having considered the record in this matter, the parties' positions as stated in the status hearing held March 16, 2021, and the General Orders of the United States District Court for the Western District of Washington addressing measures to reduce the spread and health risks from COVID-19, incorporated herein by reference, hereby FINDS as follows:

1. In light of the recommendations made by the Centers for Disease Control and Prevention (CDC) and Public Health for Seattle and King County regarding social distancing measures required to stop the spread of COVID-19, it is not possible at this time to proceed with a jury trial.

2. Due to the conditions of the pandemic, the Court's most recent General Order continues all criminal jury trials through at least March 31, 2021. *See* General Order 18-20. The Court anticipates that this District will begin the process of resuming criminal jury trials in May 2021. Although there is a significant backlog of criminal cases waiting to proceed to trial, this case would likely be prioritized for a trial date in May or June based on its age and the defendant's custody status.
3. On February 17, 2021, attorney Nicholas Marchi was appointed to represent Mr. Serrano Luna, replacing previously appointed counsel. Mr. Marchi is still relatively new to the case and is still reviewing voluminous discovery, including several videos. With the defendant's agreement, he has asked the Court to continue the status conference for one month before setting a new trial date. This continuance will allow Mr. Marchi needed time to review discovery, research and investigate potential defenses, and provide legal advice. Additionally, the continuance will allow Mr. Marchi to better assess the length of time he needs to prepare for a jury trial if a plea resolution cannot be reached.
4. For the foregoing reasons, the Court finds that the failure to grant a continuance of the trial date in this case would result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i). Given the volume of discovery produced in this case, including a number of lengthy video recordings, and the timing of Mr. Marchi's appointment, it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by the Speedy Trial Act. *See* 18 U.S.C. § 3161(h)(7)(B)(ii). Further, the failure to grant a continuance would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv). Accordingly, pursuant to 18 U.S.C. § 3161(h)(7)(A),

1 the Court finds that the ends of justice served by continuing the status conference  
2 and trial in this case outweighs the best interest of the public and the defendant in  
3 a speedier trial.

4  
5 5. The Court incorporates its oral findings and conclusions as stated during the  
6 March 16 status conference.

7 IT IS THEREFORE ORDERED that the status conference is continued to April 22,  
8 2021 at 11:00 a.m.

9 IT IS FURTHER ORDERED that the period time from March 16, 2021, up to and  
10 including the new status conference date of April 22, 2021, shall be excludable time pursuant  
11 to 18 U.S.C. § 3161.

12  
13 Dated this 16<sup>th</sup> day of March, 2021.

14  
15 

16 RICARDO S. MARTINEZ  
17 CHIEF UNITED STATES DISTRICT JUDGE  
18  
19

20 Presented by:

21 /s/ Jessica M. Manca  
22 JESSICA M. MANCA  
23 Assistant United States Attorney

24  
25 /s/ Nicholas Marchi (per Email approval)  
26 NICHOLAS MARCHI  
27 Counsel for Liobany Serrano Luna  
28